

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-04-056

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF HUMANA INSURANCE COMPANY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Humana Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated May 23, 2003 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a life and health insurance company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on May 23, 2003, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The

Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the final Report. A copy of the final Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Certifying forms that do not comply with Colorado insurance law. The Respondent shall ensure that evidence of coverage forms issued or delivered to Colorado insureds comply with statutory mandates as certified by an officer of Respondent.
10. Issue E1 concerns the following violation: Failure to reflect the correct maximum number of annual days to be provided for skilled nursing facility confinement in the basic and standard health benefit plans. The Respondent shall revise its basic and standard health benefit plans to reflect the correct maximum number of annual days provided for skilled nursing facility confinement, in compliance with Colorado insurance law.
11. Issue E2 concerns the following violation: Failure to reflect a correct definition of dependent in the basic and standard health benefit plans. The Respondent shall revise its basic and standard health benefit plans to reflect the correct age for a full-time student to qualify as a dependent, in compliance with Colorado insurance law.
12. Issue E3 concerns the following violation: Failure to reflect correct preventive services to be provided in the basic and standard health benefit plans. The Respondent shall revise its basic and standard health benefit

plans to reflect correct preventive services, in compliance with Colorado insurance law.

13. Issue E4 concerns the following violation: Failure to reflect correct and complete hospice benefits in the Respondent's small group forms. The Respondent shall revise its small group forms to reflect correct and complete hospice care benefits, in compliance with Colorado insurance law.
14. Issue E5 concerns the following violation: Failure to reflect correct conversion privileges in the Respondent's small and large group forms. The Respondent shall revise its forms used by both small and large group employers to reflect correct provisions related to conversion privileges, in compliance with Colorado insurance law.
15. Issue E6 concerns the following violation: Failure to provide benefits for covered services when lawfully performed by a licensed provider that either resides in the insured's home or who is a family member. The Respondent shall revise all affected forms to eliminate exclusions for covered services from a licensed provider who is a family member or who resides in the home of the covered person, in compliance with Colorado insurance law.
16. Issue E7 concerns the following violation: Failure to include seasonal employees as eligible for coverage in employer group applications. The Respondent shall revise its employer group applications to reflect that seasonal employees are eligible for coverage, in compliance with Colorado insurance law.
17. Issue E8 concerns the following violation: Failure to reflect a correct description of the Respondent's external review procedures. The Respondent shall revise all affected forms to reflect a correct description of its external review procedures, in compliance with Colorado insurance law.
18. Issue E9 concerns the following violation: Failure to reflect correct continuation privileges in the Respondent's small and large group forms. The Respondent shall revise all affected small and large group forms to reflect correct continuation privileges, in compliance with Colorado insurance law.
19. Issue G1 concerns the following violation: Failure to automatically provide Colorado Health Plan description forms during the application process. The Respondent shall automatically provide Colorado Health Plan description forms to all insureds that express interest in a particular plan, and ensure that it maintains documentation for market conduct purposes, in compliance with Colorado insurance law.

20. Issue H1 concerns the following violation: Failure to provide written denials and explanations for availability of basic and standard health benefit plans when declining coverage for business groups of one. The Respondent shall ensure that if business groups of one are declined coverage on the basis of risk characteristics, that the denial is in writing and is accompanied by a written explanation of the availability of its basic and standard health benefit plans, in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
21. Issue J1 concerns the following violation: Failure to pay, deny or settle clean electronic claims within thirty (30) days, clean non-electronic claims within forty-five (45) days, and except where fraud was involved, all claims within ninety (90) days. The Respondent shall correct its procedures to ensure that all clean electronic claims are paid, denied or settled within thirty (30) days, all clean non-electronic claims are paid, denied or settled within forty-five (45) days, and where fraud is involved, all claims are paid, denied or settled within ninety (90) days, in compliance with Colorado insurance law.
22. Issue K1 concerns the following violation: Failure to reflect correct procedures for expedited review of adverse determinations. The Respondent shall revise its written procedures concerning the expedited review of adverse determinations to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
23. Issue K2 concerns the following violation: Failure, in some cases, to provide an opportunity for appeal of adverse determinations. The Respondent shall ensure that claims are not denied without conducting a reasonable investigation of all available information, and that an opportunity for appeal is provided for all adverse determinations, in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
24. Issue K3 concerns the following violation: Failure to schedule and hold review meetings for second level appeals within the required forty-five (45) days. The Respondent shall ensure that all second level appeal review meetings are scheduled and held within the required forty-five (45) day time frame, in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
25. Issue K4 concerns the following violation: Failure, in some first level appeal review cases, to send written notification of the decision or to send

notification with all required elements. The Respondent shall ensure that written notification of decisions with all required elements is sent for all first level appeal review cases, in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

26. Issue K5 concerns the following violation: Failure, in some first level appeal review cases, to provide written notification of the decision within twenty (20) working days following the request for a review. The Respondent shall ensure that written notification of decisions concerning first level appeal review requests is sent within the required time frames, in compliance with Colorado insurance law.
27. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of thirteen thousand and no/100 dollars (\$13,000.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
28. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.
29. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All audits shall be performed in accordance with Division guidelines. All audit reports must be received within ninety (90) days of the Order, with a summary of the findings, including all monetary payments to covered persons.
30. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
31. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days

after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated May 23, 2003, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 22nd day of September, 2003.



Doug Dean
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of September, 2003, I deposited the within **FINAL AGENCY ORDER NO. O-04-056 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF HUMANA INSURANCE COMPANY**, in the United States Mail with postage affixed and addressed to:

Mr. Michael B. McCallister, President
Humana Insurance Company
1100 Employers Blvd.
Depere, WI 54115

Dan Haney, Director of Compliance
Humana Insurance Company
1100 Employers Blvd.
Depere, WI 54115

Dolores Arrington, M.A.
Market Conduct Section
Division of Insurance